



Rep. Lawrence M. Walsh, Jr.

Filed: 5/13/2014

09800SB3309ham002

LRB098 17036 EFG 59450 a

1 AMENDMENT TO SENATE BILL 3309

2 AMENDMENT NO. _____. Amend Senate Bill 3309 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 2-114, 3-144.2, 3-148, 4-139, 14-103.19,
6 18-116, and 21-105.1 and by adding Sections 2-155.1, 2-163,
7 4-138.10, 14-148.1, 14-153.3, 18-162.1, and 18-170 as follows:

8 (40 ILCS 5/2-114) (from Ch. 108 1/2, par. 2-114)

9 Sec. 2-114. Actuarial tables.

10 "Actuarial tables": Tabular listings of assumed rates of
11 death, disability, retirement and withdrawal from service and
12 mathematical functions derived from such rates combined with an
13 assumed rate of interest based upon the experience of the
14 system as adopted by the board upon recommendation of the
15 actuary.

16 The adopted actuarial tables shall be used to determine the

1 amount of all benefits under this Article, including any
2 optional forms of benefits. Optional forms of benefits must be
3 the actuarial equivalent of the normal benefit payable under
4 this Article.

5 (Source: Laws 1963, p. 161.)

6 (40 ILCS 5/2-155.1 new)

7 Sec. 2-155.1. Mistake in benefit. If the System mistakenly
8 sets any benefit at an incorrect amount, it shall recalculate
9 the benefit as soon as may be practicable after the mistake is
10 discovered.

11 If the benefit was mistakenly set too low, the System shall
12 make a lump sum payment to the recipient of an amount equal to
13 the difference between the benefits that should have been paid
14 and those actually paid.

15 If the benefit was mistakenly set too high, the System may
16 recover the amount overpaid from the recipient thereof, either
17 directly or by deducting such amount from the remaining
18 benefits payable to the recipient. However, if (1) the amount
19 of the benefit was mistakenly set too high, and (2) the error
20 was undiscovered for 3 years or longer, and (3) the error was
21 not the result of incorrect information supplied by the
22 affected member or beneficiary, then upon discovery of the
23 mistake the benefit shall be adjusted to the correct level, but
24 the recipient of the benefit need not repay to the System the
25 excess amounts received in error.

1 This Section applies to all mistakes in benefit
2 calculations that occur before, on, or after the effective date
3 of this amendatory Act of the 98th General Assembly.

4 (40 ILCS 5/2-163 new)

5 Sec. 2-163. Termination of plan. Upon plan termination, a
6 participant's interest in the pension fund will be
7 nonforfeitable.

8 (40 ILCS 5/3-144.2) (from Ch. 108 1/2, par. 3-144.2)

9 Sec. 3-144.2. Mistake in benefit.

10 (a) If the Fund commits a mistake by setting any benefit at
11 an incorrect amount, it shall adjust the benefit to the correct
12 level as soon as may be practicable after the mistake is
13 discovered. The term "mistake" includes a clerical or
14 administrative error executed by the Fund or participant as it
15 relates to a benefit under this Article; however, in no case
16 shall "mistake" include any benefit as it relates to the
17 reasonable calculation of the benefit or aspects of the benefit
18 based on salary, service credit, calculation or determination
19 of a disability, date of retirement, or other factors
20 significant to the calculation of the benefit that were
21 reasonably understood or agreed to by the Fund at the time of
22 retirement.

23 (b) If the benefit was mistakenly set too low, the Fund
24 shall make a lump sum payment to the recipient of an amount

1 equal to the difference between the benefits that should have
2 been paid and those actually paid, plus interest at the rate
3 prescribed by the Public Pension Division of the Department of
4 Insurance from the date the unpaid amounts accrued to the date
5 of payment.

6 (c) If the benefit was mistakenly set too high, the Fund
7 may recover the amount overpaid from the recipient thereof,
8 either directly or by deducting such amount from the remaining
9 benefits payable to the recipient as is indicated by the
10 recipient. If the overpayment is recovered by deductions from
11 the remaining benefits payable to the recipient, the monthly
12 deduction shall not exceed 10% of the corrected monthly benefit
13 unless otherwise indicated by the recipient.

14 However, if (i) the amount of the benefit was mistakenly
15 set too high, and (ii) the error was undiscovered for 3 years
16 or longer, and (iii) the error was not the result of fraud
17 committed by the affected participant or beneficiary, then upon
18 discovery of the mistake the benefit shall be adjusted to the
19 correct level, but the recipient of the benefit need not repay
20 to the Fund the excess amounts received in error.

21 ~~The amount of any overpayment, due to fraud,~~
22 ~~misrepresentation or error, of any pension or benefit granted~~
23 ~~under this Article may be deducted from future payments to the~~
24 ~~recipient of such pension or benefit.~~

25 (Source: P.A. 82-623.)

1 (40 ILCS 5/3-148) (from Ch. 108 1/2, par. 3-148)

2 Sec. 3-148. Administrative review. Except as it relates to
3 any time limitation to correct a mistake as provided in Section
4 3-144.2, the ~~The~~ provisions of the Administrative Review Law,
5 and all amendments and modifications thereof and the rules
6 adopted pursuant thereto, shall apply to and govern all
7 proceedings for the judicial review of final administrative
8 decisions of the retirement board provided for under this
9 Article. The term "administrative decision" is as defined in
10 Section 3-101 of the Code of Civil Procedure.

11 (Source: P.A. 82-783.)

12 (40 ILCS 5/4-138.10 new)

13 Sec. 4-138.10. Mistake in benefit.

14 (a) If the Fund commits a mistake by setting any benefit at
15 an incorrect amount, it shall adjust the benefit to the correct
16 level as soon as may be practicable after the mistake is
17 discovered. The term "mistake" includes a clerical or
18 administrative error executed by the Fund or participant as it
19 relates to a benefit under this Article; however, in no case
20 shall "mistake" include any benefit as it relates to the
21 reasonable calculation of the benefit or aspects of the benefit
22 based on salary, service credit, calculation or determination
23 of a disability, date of retirement, or other factors
24 significant to the calculation of the benefit that were
25 reasonably understood or agreed to by the Fund at the time of

1 retirement.

2 (b) If the benefit was mistakenly set too low, the Fund
3 shall make a lump sum payment to the recipient of an amount
4 equal to the difference between the benefits that should have
5 been paid and those actually paid, plus interest at the rate
6 prescribed by the Public Pension Division of the Department of
7 Insurance from the date the unpaid amounts accrued to the date
8 of payment.

9 (c) If the benefit was mistakenly set too high, the Fund
10 may recover the amount overpaid from the recipient thereof,
11 either directly or by deducting such amount from the remaining
12 benefits payable to the recipient as is indicated by the
13 recipient. If the overpayment is recovered by deductions from
14 the remaining benefits payable to the recipient, the monthly
15 deduction shall not exceed 10% of the corrected monthly benefit
16 unless otherwise indicated by the recipient.

17 However, if (i) the amount of the benefit was mistakenly
18 set too high, and (ii) the error was undiscovered for 3 years
19 or longer, and (iii) the error was not the result of fraud
20 committed by the affected participant or beneficiary, then upon
21 discovery of the mistake the benefit shall be adjusted to the
22 correct level, but the recipient of the benefit need not repay
23 to the Fund the excess amounts received in error.

24 (40 ILCS 5/4-139) (from Ch. 108 1/2, par. 4-139)

25 Sec. 4-139. Administrative review. Except as it relates to

1 any time limitation to correct a mistake as provided in Section
2 4-138.10 , the ~~The~~ provisions of the Administrative Review Law,
3 and all amendments and modifications thereof and the rules
4 adopted pursuant thereto, shall apply to and govern all
5 proceedings for the judicial review of final administrative
6 decisions of the retirement board provided for under this
7 Article. The term "administrative decision" is as defined in
8 Section 3-101 of the Code of Civil Procedure.

9 (Source: P.A. 82-783.)

10 (40 ILCS 5/14-103.19) (from Ch. 108 1/2, par. 14-103.19)

11 Sec. 14-103.19. Actuarial tables. "Actuarial tables":
12 Tables of mathematical functions derived from mortality,
13 disability and turn-over rates, combined with interest
14 discount factors as adopted by the board on recommendation of
15 the actuary.

16 The adopted actuarial tables shall be used to determine the
17 amount of all benefits under this Article, including any
18 optional forms of benefits. Optional forms of benefits must be
19 the actuarial equivalent of the normal benefit payable under
20 this Article.

21 (Source: P.A. 80-841.)

22 (40 ILCS 5/14-148.1 new)

23 Sec. 14-148.1. Mistake in benefit. If the System mistakenly
24 sets any benefit at an incorrect amount, it shall recalculate

1 the benefit as soon as may be practicable after the mistake is
2 discovered.

3 If the benefit was mistakenly set too low, the System shall
4 make a lump sum payment to the recipient of an amount equal to
5 the difference between the benefits that should have been paid
6 and those actually paid.

7 If the benefit was mistakenly set too high, the System may
8 recover the amount overpaid from the recipient thereof, either
9 directly or by deducting such amount from the remaining
10 benefits payable to the recipient. However, if (1) the amount
11 of the benefit was mistakenly set too high, and (2) the error
12 was undiscovered for 3 years or longer, and (3) the error was
13 not the result of incorrect information supplied by the
14 affected member or beneficiary, then upon discovery of the
15 mistake the benefit shall be adjusted to the correct level, but
16 the recipient of the benefit need not repay to the System the
17 excess amounts received in error.

18 This Section applies to all mistakes in benefit
19 calculations that occur before, on, or after the effective date
20 of this amendatory Act of the 98th General Assembly.

21 (40 ILCS 5/14-153.3 new)

22 Sec. 14-153.3. Termination of plan. Upon plan termination,
23 a member's interest in the pension fund will be nonforfeitable.

24 (40 ILCS 5/18-116) (from Ch. 108 1/2, par. 18-116)

1 Sec. 18-116. Actuarial tables.

2 "Actuarial tables": Such tabular listings of assumed rates
3 of death, disability, retirement and withdrawal from service
4 and mathematical functions derived from such rates combined
5 with an assumed rate of interest, based upon the experience of
6 the system, as adopted by the board upon recommendation by the
7 actuary.

8 The adopted actuarial tables shall be used to determine the
9 amount of all benefits under this Article, including any
10 optional forms of benefits. Optional forms of benefits must be
11 the actuarial equivalent of the normal benefit payable under
12 this Article.

13 (Source: Laws 1963, p. 161.)

14 (40 ILCS 5/18-162.1 new)

15 Sec. 18-162.1. Mistake in benefit. If the System mistakenly
16 sets any benefit at an incorrect amount, it shall recalculate
17 the benefit as soon as may be practicable after the mistake is
18 discovered.

19 If the benefit was mistakenly set too low, the System shall
20 make a lump sum payment to the recipient of an amount equal to
21 the difference between the benefits that should have been paid
22 and those actually paid.

23 If the benefit was mistakenly set too high, the System may
24 recover the amount overpaid from the recipient thereof, either
25 directly or by deducting such amount from the remaining

1 benefits payable to the recipient. However, if (1) the amount
2 of the benefit was mistakenly set too high, and (2) the error
3 was undiscovered for 3 years or longer, and (3) the error was
4 not the result of incorrect information supplied by the
5 affected member or beneficiary, then upon discovery of the
6 mistake the benefit shall be adjusted to the correct level, but
7 the recipient of the benefit need not repay to the System the
8 excess amounts received in error.

9 This Section applies to all mistakes in benefit
10 calculations that occur before, on, or after the effective date
11 of this amendatory Act of the 98th General Assembly.

12 (40 ILCS 5/18-170 new)

13 Sec. 18-170. Termination of plan. Upon plan termination, a
14 participant's interest in the pension fund will be
15 nonforfeitable.

16 (40 ILCS 5/21-105.1) (from Ch. 108 1/2, par. 21-105.1)

17 Sec. 21-105.1. Election of optional medicare coverage. The
18 State or any political subdivision or noncorporate public
19 entity may elect to provide optional medicare coverage for its
20 personnel in the same manner and subject to the same conditions
21 as are set forth in Sections 21-103, 21-104 and 21-105 for the
22 election of Social Security coverage, including a retirement
23 system established under Article 3, 4, 5, or 6 of this Code,
24 notwithstanding the provisions contained in Section 21-105 of

1 this Article.

2 (Source: P.A. 84-1472.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".